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Licenced Legal Counsel Act (715/2011)

Section 1 – Scope of application of the Act

(1) This Act contains provisions on the licence to serve as an attorney and legal counsel and on the obligations and supervision of a licenced legal counsel.

(2) Separate provisions apply to the qualifications required of an attorney and legal counsel.

Section 2 – Conditions for the granting of a licence

(1) The licence referred to in this Act to serve as an attorney and legal counsel is granted until further notice to a person who:

(1) has completed a Master of Laws degree in Finland other than a master of international and comparative law degree, or a corresponding law degree abroad which has been recognized in Finland as separately provided;

(2) has become sufficiently acquainted with the work of an attorney and legal counsel;

(3) is honest and is not manifestly unsuitable for the work of an attorney and legal counsel; and

(4) is not bankrupt and has full legal capacity.

(2) A person has the sufficient acquaintance referred to above in subsection 1, paragraph 2 if he or she:

(1) has passed the advocate's examination referred to in section 3, subsection 1, paragraph 4 of the Advocates Act (496/1958);

(2) has completed his or her court practice;

(3) has served at least one year as a prosecutor; or

(4) after having received the degree referred to in subsection 1, paragraph 1 has served at least one year in other assignments that acquaint him or her with the work of an attorney and legal counsel.

(3) A person is not deemed honest in the meaning referred to above in subsection 1, paragraph 3 if within the preceding five years he or she has been sen-

tenced to imprisonment on the basis of a legally final judgment or within the preceding three years he or she has been sentenced to a fine for an offence that demonstrates that he or she is unsuitable for work as an attorney or legal counsel.

(4) A person who, as a disciplinary sanction, has been struck from the membership of the national general association of advocates referred to in section 1, subsection 1 of the Advocates Act (*Bar Association*) or struck from the EU register kept by the Bar Association and referred to in section 5(b), subsection 1 of said Act, may not be granted the licence referred to in this Act until three years have elapsed from when he or she had been struck from membership or the register.

(5) A person whose licence as referred to in this Act to serve as attorney or legal counsel has been revoked as a disciplinary sanction may not be granted a new licence until three years have elapsed from the beginning of the period the licence was revoked.

Section 3 – *Legal Counsel Board*

An independent Legal Counsel Board considers the granting and revocation of the licence referred to in this Act and the imposition of a monetary penalty.

Section 4 – *Appointment and composition of the Legal Counsel Board*

(1) The Legal Counsel Board is appointed for a term of five years.

(2) The members of the Legal Counsel Board are one justice of a court of appeals, one judge of an administrative court or a specialized court, one district court judge, one licenced legal counsel referred to in this Act, and one member representing legal research and education. Each member has a personal deputy. The Board selects a chairperson and deputy chairperson from among its members.

(3) The Council of State appoints the Legal Counsel Board after:

(1) the Supreme Court has designated the members and deputy members from among justices of the courts of appeal and district court judges, on the basis of their applications;

(2) the Supreme Administrative Court has designated a member and deputy member from among judges of the administrative courts and special courts, on the basis of their applications; and

(3) the Ministry of Justice has designated a member and deputy member from among licenced legal counsels as well as a member and deputy member representing legal research and education.

(4) Twice the number of members and deputies shall be designated as are to be appointed as members and deputies. Before designating a member and deputy

representing legal research and education, the Ministry of Justice shall hear entities representing legal research and education.

(5) The Council of State accepts the resignation of a member or deputy of the Legal Counsel Board and, in accordance with the procedure provided for the appointment of the Board, appoints his or her successor for the remainder of the term.

Section 5 – *Quorum on the Legal Counsel Board*

The Legal Counsel Board shall have a quorum when the chairperson or chairperson and at least two other members or deputies are present.

Section 6 – *Application for the licence*

An application for the licence referred to in this Act is submitted in writing to the Legal Counsel Board. The applicant shall attach the information necessary for making a decision on the application.

Section 7 – *Decision on the application*

The application referred to above in section 6 is considered and decided by the Legal Counsel Board. If the Legal Counsel Board rejects the application, grounds shall be provided for the decision.

Section 8 – *Obligations*

(1) A licenced legal counsel shall honestly and conscientiously fulfil the assignments with which he or she is entrusted as attorney and legal counsel. In said duties the legal counsel shall in particular:

- (1) be loyal to his or her client and protect the interests and rights of his or her client to the best of his or her ability;
- (2) be free of external influence that may hamper his or her ability to fully protect the interests of his or her client, and maintain independence in his or her work;
- (3) be free of grounds for disqualification in receiving and carrying out assignments;
- (4) refrain without permission from disclosing a private or family secret or a business or professional secret that he or she has learned in the course of his or her assignments;
- (5) refrain without permission from revealing information other than that referred to in paragraph 4 that he or she has learned in the conduct of his or her assignments regarding his or her client and the circumstances of the client;

- (6) attend to the assignments that he or she has received carefully, punctually, with sufficient flexibility and without causing unnecessary expenses;
- (7) maintain and develop his or her professional abilities and follow legal developments in particular in those legal fields in which he or she works;
- (8) refuse to accept an assignment for which he or she does not have the necessary professional abilities or that he or she otherwise cannot perform in an appropriate manner;
- (9) maintain the funds and other assets belonging to his or her client separate from his or her own assets;
- (10) respond within a reasonable time to the contacts that he or she has received in connection with the work of an attorney or legal counsel, unless this is manifestly unnecessary due to an earlier response or another corresponding reason;
- (11) respond without undue delay to someone who has offered an assignment, if the licenced legal counsel does not accept such assignment offered to him or her;
- (12) obtain the approval of his or her client for important measures dealing with the rights of said client, unless this is prevented by the urgency of the matter or other weighty reasons;
- (13) refrain, without a special reason, from undertaking legal measures without notifying the opposite party of the demands of his or her client and without reserving the opposite party reasonable time for consideration and the opportunity to reach a settlement in the matter;
- (14) refrain, without the consent of the opposite party, from referring to a compromise offer made by the opposite party outside of the negotiations on an agreement;
- (15) refrain from inappropriately pressuring the opposite party;
- (16) refrain from attempting to influence the court or another authority in an inappropriate manner and from subjecting the work or decision of the court or another authority to undue criticism;
- (17) refrain from making statements to the court or another authority that he or she knows to be false, and from denying what he or she knows to be true;
- (18) refrain from seeking to unduly influence a witness;
- (19) refrain, without a special reason, from being in contact with the opposite party without the consent of the attorney or legal counsel of said party, if his or her client's opposite party has retained an attorney or legal counsel.

(2) A licenced legal counsel who engages in the work of an attorney or legal counsel on a professional basis shall have sufficient liability insurance to cover financial loss caused to another in said work.

(3) Punishment for violation of the secrecy obligation provided in subsection 1, paragraph 4 is imposed in accordance with Chapter 38, section 1 or 2 of the Criminal Code (39/1889), unless a more severe punishment is provided elsewhere in law for the act.

(4) In addition, Chapter 2 of the Consumer Protection Act (38/1978) contains provisions on conduct that is inappropriate from the point of view of the consumer or that is in violation of good conduct.

(5) What is provided above in this section shall also apply to another task of the licenced legal counsel that he or she has received on the basis of a court order or in which he or she has been appointed as the counsel referred to in the Legal Aid Act (257/2002).

Section 9 – Supervision

In his or her assignments referred to in section 8, a licenced legal counsel is subject to the supervision of the Chancellor of Justice, the Disciplinary Board referred to in section 6(a), subsection 1 of the Advocates Act (*Disciplinary Board*) and the Legal Counsel Board, as provided in this Act.

Section 10 – Supervision by the Chancellor of Justice

The Chancellor of Justice has the right to initiate a supervision case referred to in section 14 if he or she finds that a licenced legal counsel is neglecting his or her obligations. The legal counsel is required to provide the Chancellor of Justice the information and accounts that are necessary for the Chancellor of Justice to perform the duties assigned to him or her in this Act.

Section 11 – Supervision by the Disciplinary Board

(1) A supervision case concerning a licenced legal counsel referred to in section 14 is considered and decided by the Disciplinary Board. The provisions in sections 6(a), 7(a) and 7(b), 7(j) subsection 1, and 7(k) of the Advocates Act apply to the Disciplinary Board and its members. In considering a supervision case concerning a licenced legal counsel, the chairperson of the Disciplinary Board shall be a member of the Disciplinary Board who is not also a member of the Bar Association.

(2) The supervision cases referred to in subsection 1 to be considered by the Disciplinary Board are prepared by the supervision unit referred to in section 6(a), subsection 1 of the Advocates Act (*supervision unit*). The provisions in sec-

tion 6(a), section 7(j), subsection 1 and section 7(k) of the Advocates Act apply to the supervision unit and its personnel.

Section 12 – Supervision by the Legal Counsel Board

Notwithstanding what is provided in section 11, the Legal Counsel Board decides on the revocation of a licence and the imposition of a monetary penalty. The Legal Counsel Board may also issue a caution or return a supervision case for the consideration of the Disciplinary Board as provided in section 16.

Section 13 – Disciplinary sanction

(1) If a licenced legal counsel is found on the basis of the circumstances that have been shown in the consideration of a supervision case to have violated the provisions of section 8, a *disciplinary sanction* consisting of the revocation of licence, the imposition of a monetary penalty, a caution or a reprimand referred to in this Act, shall be imposed on him or her.

(2) The licence referred to in this Act shall be revoked if a licenced legal counsel in his or her assignments referred to in section 8 acts dishonestly or in another manner intentionally violates the rights of another person. If there are mitigating circumstances connected to the conduct of the legal counsel, a monetary penalty or a caution may be imposed instead.

(3) If a licenced legal counsel violates the provisions of section 8 in a manner other than what is referred to in subsection 2, a caution or a reprimand shall be imposed on him or her. If the conduct of the legal counsel referred to in this subsection or in subsection 2 is repeated or there otherwise are aggravating circumstances involved, his or her licence referred to in this Act may be revoked or a monetary penalty may be imposed on him or her.

(4) The monetary penalty is at least 500 euros and at most 15,000 euros. In imposing a monetary penalty, consideration shall be taken among others of the censurability of the conduct of the licenced legal counsel, his or her experience in work as an advocate and his or her financial circumstances, so that the sanction is in just proportion to his or her conduct. The monetary penalty is assessed by the Legal Counsel Board.

(5) No monetary penalty shall be imposed if a case concerning the same violation is pending in pre-trial investigation, the consideration of charges or before court as a criminal case, or if the licenced legal counsel has been sentenced to a legally final punishment for the same violation.

(6) In the cases referred to in subsection 3, the sanction may be waived if the conduct of the licenced legal counsel violates the obligations referred to in section 8 only to a slight extent and the conduct, in view of its detrimental nature, is to be deemed petty also as a whole.

(7) If the licence of a licenced legal counsel has been revoked after the supervision case has become pending, the Disciplinary Board and the Legal Counsel Board may continue consideration of the case and issue a statement on whether the licenced legal counsel had, at the time that the licence referred to in this Act had been in force, conducted himself or herself in a censurable manner and what sanction would have been imposed on him or her for this.

(8) The Legal Counsel Board may order that the revocation of the licence referred to in this Act shall take effect notwithstanding an appeal.

Section 14 – *Initiation of a supervision case*

(1) A supervision case is initiated when a written complaint against a licenced legal counsel, a notice by the Chancellor of Justice on the basis of section 10, or a notice by a court on the basis of Chapter 15, section 1(a) of the Code of Judicial Procedure is received by the Disciplinary Board.

(2) If the complaint is so incomplete that the case cannot be taken up for decision on its basis, the complainant shall be exhorted to remedy the defect within a specified period. The complainant shall be advised at the same time of in what respect the complaint is incomplete, and that the Disciplinary Board may refrain from taking up the complaint for consideration if the complainant does comply with the exhortation to remedy the complaint. The Disciplinary Board shall not reopen for consideration a complaint regarding a case that it has already decided, unless the complaint contains relevant new information.

(3) A complaint may be dismissed without considering the merits if more than five years have passed since the events to which the complaint refers.

Section 15 – *Consideration of the supervision case in the Disciplinary Board*

(1) Supervision cases are considered by the Disciplinary Board in a plenary session or in a division. The plenary session considers the cases assigned to it by the chairperson of the Disciplinary Board or transferred to it by a division. Nonetheless, a recommendation to the Legal Counsel Board on the revocation of a licence or the imposition of a monetary penalty is always decided in a plenary session.

(2) The procedure in the Disciplinary Board in a supervision case is in writing. However, a recommendation to the Legal Counsel Board on the revocation of a licence or on the imposition of a monetary penalty may be made only if an oral hearing has been held by the Disciplinary Board in the case. Also otherwise the Disciplinary Board may hold an oral hearing. The licenced legal counsel concerned in the supervision case and the complainant shall be summoned to the oral hearing.

(3) The Disciplinary Board shall reserve the licenced legal counsel concerned in the supervision case an opportunity to be heard before the case is decided. The legal counsel shall provide the information and accounts requested from him or her, in a transparent and truthful manner. The Disciplinary Board shall reserve the complainant an opportunity to comment on the response of the legal counsel. The Disciplinary Board shall also otherwise ensure that the case is sufficiently investigated.

Section 16 – Consideration of the recommendation of the Disciplinary Board on the Legal Counsel Board

(1) The recommendation of the Disciplinary Board to the Legal Counsel Board on the revocation of a licence or the imposition of a monetary penalty shall be made in writing and shall indicate:

- (1) the type of case and the date that the recommendation was issued;
- (2) the names of the parties and of the complainant;
- (3) a statement of the claims made in the case and of the responses as well as their grounds;
- (4) the sanction recommended by the Disciplinary Board and the grounds for this; and
- (5) the names and positions of the persons who had participated on the Disciplinary Board in the preparation of the recommendation, and a statement on whether a vote was taken on the recommendation; if a vote had been taken on the recommendation, the opinion of the minority members shall be appended to the recommendation.

(2) The procedure in the consideration on the Disciplinary Board of the recommendation referred to in subsection 1 shall be in writing. The Legal Counsel Board shall, in considering the recommendation, reserve the licenced legal counsel concerned in the recommendation and the complainant an opportunity to be heard in respect of the recommendation. The Legal Counsel Board may as necessary arrange an oral hearing in the matter.

(3) The Legal Counsel Board may, instead of the revocation of licence or the monetary penalty recommended by the Disciplinary Board, also issue the licenced legal counsel a caution as provided in section 13 or return the matter for the consideration of the Disciplinary Board.

Section 17 – Decision in a supervision case

What is provided in section 7(g) of the Advocates Act regarding a decision in a supervision case applies as appropriate to a decision of the Disciplinary Board and the Legal Counsel Board in a supervision case.

Section 18 – Public diary and public summary of decisions

(1) The Disciplinary Board shall maintain a public diary of supervision cases. An entry regarding the revocation of a licence shall be deleted from the public diary ten years after the decision of the Legal Counsel Board was issued. Otherwise the provisions of section 7(h) of the Advocates Act on the public diary and its maintenance in supervision cases apply as appropriate to the public diary.

(2) The Disciplinary Board and the Legal Counsel Board shall maintain a public summary of decisions they have issued in supervision cases. Otherwise the provisions of section 7(i) of the Advocates Act on the public summary in supervision cases apply as appropriate to the public summary.

Section 19 – Other provisions to be applied in the consideration of a supervision case

(1) To the extent not provided elsewhere in law, the provisions of the Administrative Procedure Act (434/2003), the Language Act (423/2003) and the Sami Language Act (1086/2003) apply to the consideration of a supervision case by the Disciplinary Board, the supervision unit and the Legal Counsel Board.

(2) The provisions of the Act on the Openness of Government Activities (621/1999) apply to the openness of the documents and of the activities of the Disciplinary Board, the supervision unit and the Legal Counsel Board in a supervision case, unless provided otherwise due to the confidentiality obligation of the licenced legal counsel. However, a document does not become public until the decision of the Disciplinary Board or the Legal Counsel Board has been issued or until it has been made available to the parties.

Section 20 – Revocation of a licence other than on the basis of a disciplinary sanction

(1) The Legal Counsel Board shall revoke a licence that it has granted if the licenced legal counsel:

- (1) requests in writing the revocation of the licence;
- (2) no longer fulfils the requirements for granting the licence provided in section 2; or
- (3) has not remitted the application fee, supervision fee or monetary penalty within a reasonable period after he or she has been reminded of the failure to pay this, and the failure to do so cannot be deemed petty.

(2) In cases other than those referred to in subsection 1, paragraph 1, the Legal Counsel Board shall reserve the licenced legal counsel an opportunity to be heard before the licence is revoked.

Section 21 – Lapse of a licence

If a licenced legal counsel is admitted as a member to the Bar Association, his or her licence as referred to in this Act lapses.

Section 22 – Provisions that apply to the consideration of other than a supervision case by the Legal Counsel Board

To the extent that provisions are not provided elsewhere in law, the provisions of the Administrative Procedure Act, the Language Act, the Sami Language Act and the Act on the Openness of Government Activities apply to the consideration of other than a supervision case referred to in section 14 by the Legal Counsel Board.

Section 23 – Legal counsel register

(1) Information on the name of a licenced legal counsel and the date on which the licence was issued shall be entered into the public register maintained by the Legal Counsel Board (*legal counsel register*).

(2) The Legal Counsel Board shall delete information regarding a licenced legal counsel from the legal counsel register if his or her licence has been revoked by a legally final decision or his or her licence has lapsed on the basis of section 21.

(3) More detailed provisions on the legal counsel register may be issued in a Government Decree.

Section 24 – Fees

(1) The Legal Counsel Board levies an application fee for the consideration of the application referred to in section 6. The provisions of the Act on the Basis for Fees (150/1992) apply to the application fee.

(2) The licenced legal counsel shall pay in addition a supervision fee. The supervision fee shall be paid for the year during which the licenced legal counsel is granted the licence referred to in this Act, and in addition for each calendar year at the beginning of which his or her licence is valid. The supervision fee is 350 euros and it is collected by the Legal Counsel Board. The Legal Counsel Board shall each year remit 2/3 of the supervision fees that it has collected to the Bar Association, which sum shall be used to cover the costs incurred by the activity of the Disciplinary Board and the supervision unit. The Ministry of Justice shall adjust the size of the supervision fee each year in accordance with the increase in the cost of living index. The adjustment shall be made in increments divisible by two euros.

Section 25 – Appeal

(1) A person whose application to receive the licence referred to in this Act or whose licence has been revoked on the grounds referred to in section 20, subsection 1, has the right to appeal the decision of the Legal Counsel Board to the Helsinki Court of Appeal. In addition, the Chancellor of Justice has the right to appeal the decision of the Legal Counsel Board referred to in section 20 on the revocation of a licence, to the Helsinki Court of Appeal.

(2) The licenced legal counsel who is concerned in the supervision case and the Chancellor of Justice have the right to appeal a decision of the Disciplinary Board and of the Legal Counsel Board given in a supervision case referred to in section 14, to the Helsinki Court of Appeal. A decision of the Disciplinary Board to submit a recommendation referred to in section 16, subsection 1 to the Legal Counsel Board for the revocation of a licence or the imposition of a monetary penalty is not, however, subject to separate appeal.

(3) The period for the submission of the appeal is 30 days. The period of appeal begins on the day that service has been given of the decision. The letter of appeal addressed to the Helsinki Court of Appeal shall be submitted within the period provided to the Board that had issued the decision that is the subject of the appeal. The Board shall, without delay, submit to the Court of Appeal the letter of appeal with its attachments and a copy of the decision that is the subject of the appeal.

(4) In considering the appeal, the Court of Appeal shall reserve the Chancellor of Justice, the licenced legal counsel who is concerned in the supervision case, and the complainant an opportunity to be heard on the basis of the appeal and, if necessary, to submit evidence and other clarification.

Section 26 – Appeal of the decision regarding the fee

Rectification of a decision of the Legal Counsel Board on an application fee or a supervision fee may be sought from said Board as provided in Chapter 7(a) of the Administrative Procedure Act. The decision on the request for rectification is subject to appeal to the Administrative Court as provided in the Administrative Judicial Procedure Act (586/1996).

Section 27 – Enforcement of fees

An application fee, a supervision fee and a monetary penalty are directly enforceable. The Act on the Enforcement of Taxes and Fees (706/2007) contains provisions on their collection. A monetary penalty may nonetheless be enforced only on the basis of a legally final decision.

Section 28 – Notices to be submitted

(1) The Disciplinary Board shall submit to the Legal Counsel Board a notice of a decision by which a person has, as a disciplinary punishment, been barred from the Bar Association or struck from the EU register referred to in section 5(b), subsection 1 of the Advocates Act, and state at the same time whether the decision has become legally final.

(2) The Board of the Bar Association shall submit to the Legal Counsel Board notice of acceptance of a licensed legal counsel as a member of the Bar Association.

(3) The Legal Counsel Board shall submit to general courts of law, general administrative courts, the Labour Court and the Market Court notice of a decision by which the licence of a licenced legal counsel has been revoked and state at the same time whether the decision has become legally final.

(4) The Disciplinary Board and the Legal Counsel Board shall send to the Chancellor of Justice a copy of a decision that they have given in a supervisory case referred to in section 14. In addition, the Legal Counsel Board shall submit to the Chancellor of Justice a copy of its decision on the revocation of a licence as referred to in section 20.

(5) The Legal Counsel Board shall send to the Disciplinary Board a copy of its decision in a supervision case referred to in section 14 and of the public summary that it has prepared on this decision. In addition the Legal Counsel Board shall submit to the Disciplinary Board the other information on the supervision case which in accordance with section 7(h), subsection 1 of the Advocates Act is to be entered into the public diary.

(6) More detailed provisions on the notices referred to in this section may be issued in a Government Decree.

Section 29 – *More detailed provisions and orders*

(1) More detailed provisions on the Legal Counsel Board and on consideration of matters by the Board may be issued in a Government Decree. More detailed provisions on the organization of work on the Legal Counsel Board may be provided in regulations approved by the chairperson of the Board.

(2) More detailed provisions on the implementation of this Act may be issued in a Government Decree.

Section 30 – *Entry into force*

(1) This Act enters into force on 1 January 2013.

(2) Notwithstanding what is provided in section 4, when the Legal Counsel Board is first appointed, the Board is appointed for a period of two years and its members consist of one justice from a Court of Appeal, one judge from an administrative court or a specialized court, one judge from a district court and

one member representing legal research and education, and a personal deputy for each of the preceding.

(3) A person who, in accordance with the provisions in force at the time this Act enters into force, has the right to serve as an attorney and legal counsel, continues to have the right to serve as an attorney and legal counsel for one year after this Act enters into force.

(4) In addition to what is provided above in subsection 3, a person who, in accordance with the provisions in force at the time that this Act enters into force, has the right to serve as an attorney and legal counsel, and who applies for the licence referred to in this Act three months before the end of the period provided in subsection 3 and whose application has not been decided in a legally final manner within one year of the entry of the Act into force, has the right to serve as attorney and legal counsel until such time as his or her application has been decided in a legally final manner.

(5) Notwithstanding the provisions of subsections 3 and 4, the provisions in force at the time this Act enters into force apply to a case that is pending in court at the time this Act enters into force.

(6) Measures required for the implementation of this Act may be taken before this Act enters into force.